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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAN FRANCISCO BAYKEEPER; SAVE THE
BAY; COMMITTEE FOR GREEN
FOOTHILLS; CITIZENS' COMMITTEE TO
COMPLETE THE REFUGE; and STATE OF
CALIFORNIA, by and through XAVIER
BECERRA, ATTORNEY GENERAL,

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY AND ITS ADMINISTRATOR,

Defendants.

REDWOOD CITY PLANT SITE, LLC,

Intervenor-Defendant.

CASE NO: 3:19-cv-05941-WHA (lead case)

Consolidated with

No: 3:19-cv-05943-WHA

**STIPULATION AND [PROPOSED] ORDER
FOR ABEYANCE IN LIGHT OF FEE
SETTLEMENT**

Defendants U.S. Environmental Protection Agency and its Administrator in his official capacity (“EPA”) and Plaintiffs San Francisco Baykeeper, Save The Bay, Green Foothills, and Citizens’ Committee To Complete The Refuge (“NGO Plaintiffs”) have reached a tentative settlement agreement with respect to NGO Plaintiffs’ Motion for Attorneys’ Fees and Costs under the Equal Access to Justice Act (“EAJA”) filed on April 2, 2021 (“fee motion”) (Dkt. No. 94). The settlement agreement is “tentative” in the sense that, while the parties have exchanged emails setting forth the amount that EPA would pay, the parties still need to draft a written settlement agreement and obtain formal authority to execute it.

In light of this development, the parties hereby stipulate and propose for the Court’s approval that all further proceedings on the fee motion – including EPA’s obligation to file a response to the fee motion by July 1; NGO Plaintiffs’ opportunity to file a reply brief by July 15; and the hearing noticed for July 29 – be held in abeyance.

Further, under this stipulation and proposed order, the abeyance period would last until such time as the NGO Plaintiffs file a notice with the Court that they have received, from EPA, all monies due under the settlement agreement. When that notice is filed, the fee motion would be deemed terminated, and the case would be deemed closed.

In the interim, any party may seek to lift the abeyance for good cause (if, for example, something unexpected occurs in the process of drafting the settlement agreement). The parties would meet and confer with one another before seeking such relief.

It is so stipulated.

Dated: June 24, 2021

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Dated: June 24, 2021

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PROPOSED ORDER

The Court is in receipt of the parties' notice that they have reached a tentative settlement agreement respecting the fee motion; i.e., NGO Plaintiffs' Motion for Attorneys' Fees and Costs under the Equal Access to Justice Act (Dkt. No. 94). The Court approves the parties' stipulation and proposed order, filed June 24, 2021, and orders as follows:

1. All further proceedings on the fee motion, including the deadlines for EPA's response brief and any reply brief by NGO Plaintiffs, are held in abeyance.
2. The hearing on the fee motion, currently scheduled for July 29, 2021, at 8:00 a.m., is vacated.
3. The abeyance period shall continue until such time as NGO Plaintiffs file a notice with the Court that they have received all monies due under the settlement agreement. When that notice is filed, the fee motion shall be deemed terminated, and the case shall be deemed closed.
4. In the meantime, while the abeyance is in place, any party may, after meeting and conferring with the opposing side, seek to lift the abeyance for good cause (if, for example, something unexpected occurs in the process of drafting the settlement agreement).

IT IS SO ORDERED.

Dated: _____

HON. JUDGE WILLIAM H. ALSUP